



State of Utah

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Department of  
Environmental Quality

L. Scott Baird  
*Executive Director*

DIVISION OF WASTE MANAGEMENT  
AND RADIATION CONTROL

*Ty L. Howard*  
*Director*

December 12, 2019

Randy Moulding, President  
Moulding Investments, LLC  
10485 West 900 South  
Ogden, UT 84404

RE: Franklin Hill Regional Landfill Statement of Basis Document

Dear Mr. Moulding:

The Division of Waste Management and Radiation Control has completed review of comments, reply comments and sur-reply comments submitted in association with the draft Franklin Hill Class 1 Regional Landfill Permit. Attached to this letter is the Statement of Basis developed by the Division to address comments received during the comment period and comments received at the request of the Director regarding issues associated with the Greater Sage Grouse.

The final signed permit for the Franklin Hill Class 1 Regional Landfill is being transmitted to you under a separate letter.

If you have any questions, please call Doug Taylor at (801) 536-0240.

Sincerely,

Ty L. Howard, Director  
Division of Waste Management and Radiation Control

TLH/DT/kl

Enclosure: Statement of Basis for the Franklin Hill Regional Class I Landfill Permit  
(DSHW-2019-015922)

c: Lloyd Berentzen, MBA, Health Officer, Bear River Health Department  
Grant Koford, EHS, Environmental Health Director, Bear River Health Department

DSHW-2019-017169

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# **Statement of Basis for the Franklin Hill Regional Class I Landfill Permit**

## **1. INTRODUCTION**

This Statement of Basis provides the rationale of the Director of the Division of Waste Management and Radiation Control (Division) for issuing the Class I Franklin Hill Regional Landfill Permit. The Director's staff conducted this evaluation to ensure compliance with the applicable Solid Waste Rules. Doug Taylor, an environmental scientist with the Division, wrote this Statement of Basis.

## **2. FACILITY BACKGROUND**

### **a. Facility Location and History**

The proposed facility location is approximately three-quarters of a mile north and west off Exit 16 from I-84, eight miles southeast of Snowville, in Box Elder County, Utah. See Figure 1.

### **b. Regulatory History**

This is a new facility, so there is no regulatory history for the Facility.

## **3. EVALUATION OF THE PERMIT APPLICATION**

- a. The permit application for the Facility was submitted to the Division in April of 2014. The applicant initially asked the Division to hold review of the permit, pending an application to Box Elder County for a Conditional Use Permit. On May 11, 2015, the applicant requested the Division to proceed evaluating the permit application. The Division provided comments to the applicant on three separate occasions requesting additional information. The Utah Division of Wildlife Resources (UDWR) submitted comments to the Division expressing concerns over wildlife issues, including the Greater Sage Grouse habitat in the proposed landfill area. The applicant responded on March 23, 2017 to the Division's comments, providing a new section to the permit application addressing UDWR and Division comments. The Director deemed the permit application complete on July 17, 2017, and a draft permit was prepared. The draft permit was then prepared for public participation as outlined below.

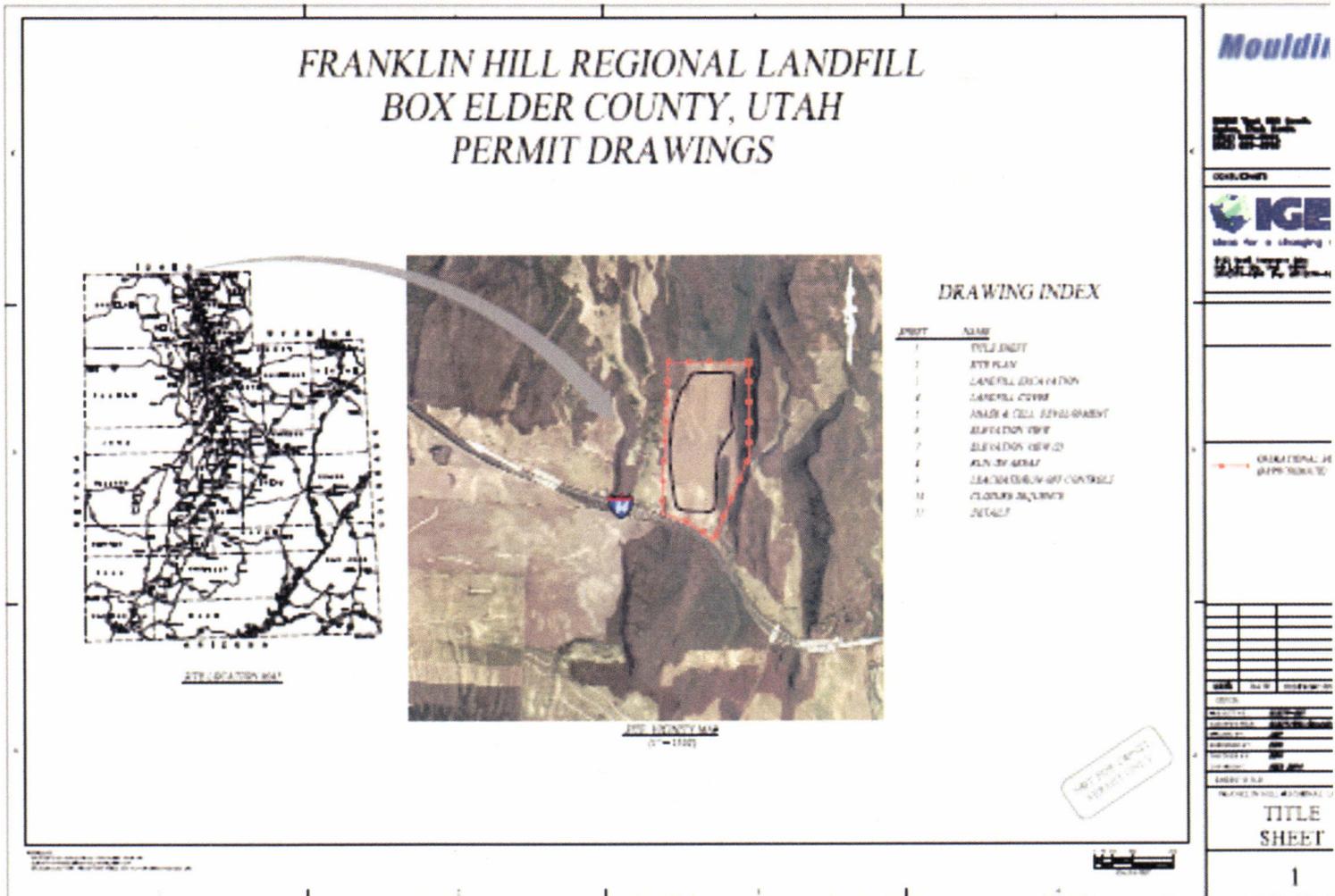
## **4. JUSTIFICATION FOR ISSUING THE PERMIT**

- a. The Director's staff has evaluated the permit application as required by Section 19-6-108 of the Solid and Hazardous Waste Act and R315-301 through 320 of the Solid and Hazardous Waste Rules. After evaluation of the permit application, the Director has concluded that the requirements of R315-301 through 320 have been met and that it is therefore appropriate to issue this permit.

## 5. PUBLIC PARTICIPATION

- a. As required by Utah Administrative Code R315-311-3, the Director provided an initial 30-day public comment period on the draft permit, which began September 6, 2017 and ended October 6, 2017. A public hearing was held on October 3, 2017 at the Commission Chambers at the Box Elder County Courthouse in Brigham City, Utah. The response to those comments is found in Appendix A.
  - b. The applicant was requested by the Director to submit reply comments regarding public comments concerning Greater Sage Grouse habitat on August 9, 2018. On August 23, 2018, the applicant requested a 60-day extension to respond to the public comments. The applicant submitted his reply comments to the Director on November 2, 2018. The reply comments from the applicant are found in Appendix B.
  - c. To help clarify the issues revolving around the sage grouse and its habitat in the vicinity of the proposed landfill, the Director held a meeting on November 8, 2018 with biologists from the UDWR. The Director requested that the UDWR respond in writing to these issues. The UDWR responded in writing to the Director's request on February 6, 2019, providing more insight on sage grouse issues at the proposed landfill location. The February 6, 2019 letter from UDWR is included as Attachment 1 to this document.
  - d. The Director requested Sur-Reply Comments from four commenters in a letter dated August 14, 2019 to Box Elder Land and Water Stewards, LLC and Clean Water Drinking Association, Ernest R. Perkins, Fred and Laura Selman, and Northern Utah Conservation District. An extension was requested and granted by the Director for submission of Sur-reply comments by September 26, 2019.
6. DIRECTOR'S RESPONSE TO PUBLIC COMMENTS, REPLY COMMENTS, and SUR-REPLY COMMENTS. The Director's response to comments received during the public comment period is found in Appendix A. The response to the Reply Comments from the permit applicant is found in Appendix B. The Sur-reply comments from the four commenters are found in Appendix C.

**Figure 1  
Facility Location**



## **Appendix A – Comments from the Public Meeting and Comment Period for the Franklin Hill Regional Landfill Draft Permit**

Appendix A is the Director's response to comments received during the comment period on the draft permit for the Franklin Hill Regional Landfill. These comments originated from the public hearing and the public comment period. Many of the comments are similar and are addressed collectively.

### Public Comment 1:

Commenters suggested the landfill would affect the Greater Sage-Grouse habitat because its location would affect ecologically significant areas designated pursuant to the Endangered Species Act of 1982.

### Division Response:

*The application for the landfill located in Hansel Valley is located in an area designated as habitat within the east Box Elder Greater Sage-Grouse Management Area. The Greater Sage-Grouse has not been designated as an endangered species and this area is not designated as a wildlife management area as outlined in R315-302-(2)(a)(ii). The Division consulted with the UDWR in addressing concerns expressed by commenters about the Greater Sage-Grouse habitat. In a letter to the Division Director dated February 6, 2019, the UDWR explained its position regarding the Greater Sage-Grouse Management Area. The Director believes that impacts to sage-grouse habitat have been addressed.*

**The following information regarding the Greater Sage-Grouse Management Area was provided in the February 6, 2019 letter from UDWR.**

*"The entire property is roughly 2,200 acres, with approximately 225 acres proposed as the final, fully built-out, footprint for the Landfill. Approximately 3/4 of the Landfill falls within the East Box Elder Sage-grouse Management Area (SGMA) identified within the 2013 Utah Conservation Plan for Greater Sage-grouse. These 225 acres are located within 800 acres that previously have been disturbed, seeded and used as a dry farm for many years. Several years ago, the dry farm was allowed to become fallow, with no cultivation activities currently taking place on the area. Following full Landfill build-out, approximately 575 acres of this dry farm would remain. Thus, although the Landfill is within the SGMA, the majority of the area has been continually disturbed and is not currently considered as viable sage-grouse habitat.*

*Because of the previous and current disturbances to this area, the Landfill site could be considered as "Non-Habitat," or as a possible "Opportunity Area" if grouse begin to repopulate the larger area. Historically, this property supported sagebrush and would have been available as good habitat for sage-grouse. However, it has been used as a dry farm for many years, and therefore is not providing much value for sage-grouse. Following Landfill activities at final build-out, and the eventual closing of the Landfill, this area and the surrounding dry farm acres (800 acres total) could be restored to sagebrush habitats, thereby providing long-term improvements to habitat for sage-grouse.*

*The surrounding rangelands support sagebrush and may contribute to sage-grouse populations within the SGMA, although sage-grouse use of the area has not been documented recently by UDWR biologists. This area*

*may be used by sage-grouse at various times during the year, but it does not provide the most critical types of habitat, such as nesting, breeding, brooding or wintering habitats.”*

*In accordance with Utah Administrative Code R315-302-1(2), The Director concludes that the Landfill: (1) is not located within 1,000 feet of an ecologically and scientifically significant natural area, a wildlife management area, or habitat for threatened or endangered species as designated pursuant to the Endangered Species Act and; (2) will not jeopardize the continued existence of sage grouse or adversely modify habitat critical to sage grouse.*

**No changes were made to the permit based on these comments.**

Public Comment 2:

Commenters expressed concern that predators such as crows, ravens and magpies, which are attracted to landfills, would prey upon the eggs and young sage grouse.

Division Response:

*The Permit requires that waste be covered daily with a minimum of six inches of soil cover. Section 3.8.3 of Attachment 2 of the Permit outlines procedures to monitor and control birds at the landfill. An Attachment will be added to the permit outlining procedures that Landfill staff will utilize to monitor for the presence of avian predators. The presence of ravens, crows, and magpies will be specifically noted on monthly wildlife forms that were submitted to the Director in a letter dated March 23, 2017 that included an inspection checklist for avian predators as well as evaluations of improvements/mitigation measures in the surrounding dry farm area .*

**A change was made to the permit with the addition of “Franklin Hill Regional Landfill Monthly Wildlife Documentation” to the end of Attachment 2. The following condition will be added to the end of Attachment 2, “If ravens, crows, or magpies are observed at the site, landfill staff will notify the UDWR to discuss mitigation methods.”**

Public Comment 3:

Commenters expressed concern about ground water contamination of their culinary sources of water in the Blue Creek and other aquifers present in the area. Commenters also expressed concerns that inclement weather would contaminate surface waters.

Division Response:

*Ground water in the Hansel Valley is recharged by precipitation that infiltrates into the unconsolidated sediments as well as into the consolidated igneous and sedimentary rocks at a greater depth. Ground Water depth in the area of the landfill is approximately 324 feet below surface.*

*There has been no designation of a sole source aquifer in the Hansel Valley.*

*Section II of the Permit requires that the landfill be constructed in such a manner as to eliminate releases to ground water. The permittee is required in Section II.b to construct run-on/run-off control to ensure that water*

*contaminated by waste is captured and managed at the landfill. Section III.F of the permit requires ground water monitoring at the landfill to detect releases from the landfill to the ground water.*

**Based on condition III.F the Director concludes that leachate from the landfill is unlikely to contaminate culinary water sources. No change has been made to the Permit.**

Public Comment 4:

Commenters expressed concern about the landfill being built in a seismically active area where earthquakes could damage the liner and contaminate the water aquifers.

Division Response:

*The Permittee is required to construct the landfill so that it satisfies the requirements for construction in a seismic impact zone. It is the Directors opinion that the landfill meets the design requirements outlined in R315-302-1(2) (b)(iii).*

**No change has been made to the Permit.**

## **Appendix B – Reply Comments from the Permit Applicant and Director’s Response for the Franklin Hill Regional Landfill Draft Permit**

*Commenters raised questions concerning ecologically and scientifically significant and natural areas specific to sage grouse management and habitat. To assist the Director in evaluating those comments, the Director requested on August 9, 2018 that the Permittee respond to those comments. On November 2, 2018, the Permittee provided a response to comments outlining its position that the Sage Grouse Management Plan did not apply to private property owners.*

The Director also met with representatives of UDWR on November 8, 2018 regarding concerns for the Greater Sage Grouse Management Area. The Director received a letter dated February 6, 2019 from the UDWR defining the Greater Sage-Grouse Management Plan.

After review of the reply comments and consultation with UDWR, the Director concludes that the landfill will not adversely affect the Greater Sage Grouse.

## **Appendix C – Sur Reply Comments from the Four Commenters and the Director’s Response to the Sur-Reply Comment for the Franklin Hill Regional Landfill Draft Permit**

*The Director requested Sur-Reply Comments from four commenters in his letter dated August 14, 2019 to Box Elder Land and Water Stewards, LLC and Clean Water Drinking Association, Ernest R. Perkins, Fred and Laura Selman, and Northern Utah Conservation District. The request for Sur-Reply comment was specific to the Greater Sage-Grouse Management Area.*

*A request for additional time to comment was submitted on August 28, 2019. The Director provided an extension for submission of comments to September 26, 2019.*

### **Public Comment 1:**

Commenters suggested that the landfill location is still in Greater Sage-Grouse habitat which should be protected. It was also suggested that sage-grouse have been seen in areas around the landfill property.

### **Division Response:**

See Public Comment #1 in Appendix A, above.

## **CONCLUSION**

The Director has determined that the applicant has met all required items in the permit application and has addressed comments about the proposed landfill. The Director has addressed comments received during the public comment period regarding this permit. The Director concludes that this permit satisfies the requirements of the Solid and Hazardous Waste Act and applicable rules.

**Attachment 1**  
**Utah Division of Wildlife Resources Letter, February 6, 2019**

FEB - 6 2019

DSHW-2019-001507



GARY R. HERBERT  
Governor  
SPENCER J. COX  
Lieutenant Governor

## State of Utah

### DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

#### Division of Wildlife Resources

MICHAEL D. FOWLKS  
Division Director

February 6, 2019

Scott T. Anderson, Director  
Division of Waste Management and Radiation Control  
195 North 1950 West  
P.O. Box 144880  
Salt Lake City, UT 84114-4880

Subject -- Franklin Hill Regional Landfill – Wildlife Mitigation Recommendations

Dear Mr. Anderson:

The Utah Division of Wildlife Resources (UDWR) appreciated the opportunity to meet with you and your staff on November 8, 2018, to discuss and clarify developing aspects of the *Utah Conservation Plan for Greater Sage-grouse* (Plan; finalized January 2019), in relation to the proposed Franklin Hill Regional Landfill (Landfill) in Box Elder County. As per request, we are providing you with our wildlife-related comments, including recommendations regarding potential mitigation measures specific to the Landfill.

The entire property is roughly 2,200 acres, with approximately 225 acres proposed as the final, fully built-out footprint for the Landfill. Approximately  $\frac{3}{4}$  of the Landfill falls within the East Box Elder Sage-grouse Management Area (SGMA) identified within the Plan. These 225 acres are located within 800 acres that previously have been disturbed, seeded and used as a dry farm for many years. Several years ago, the dry farm was allowed to become fallow, with no cultivation activities currently taking place on the area. Following full Landfill build-out, approximately 575 acres of this dry farm would remain. Thus, although the Landfill is within the SGMA, the majority of the area has been continually disturbed and is not currently considered as viable sage-grouse habitat.

Because of the previous and current disturbances to this area, the Landfill site could be considered as "Non-Habitat," or as a possible "Opportunity Area" if grouse begin to repopulate the larger area. Historically, this property supported sagebrush and would have been available as good habitat for sage-grouse. However, it has been used as a dry farm for many years, and therefore is not providing much value for sage-grouse. Following Landfill activities at final build-out, and the eventual closing of the Landfill, this area and the surrounding dry farm acres (800 acres total) could be restored to sagebrush habitats, thereby providing long-term improvements to habitat for sage-grouse.

The surrounding rangelands support sagebrush and may contribute to sage-grouse populations within the SGMA, although sage-grouse use of the area has not been documented recently by Utah Division of Wildlife Resources (UDWR) biologists. This area may be used by sage-grouse at various times during the year, but it does not provide



the most critical types of habitat, such as nesting, breeding, brooding or wintering habitats.

Several years ago, the Natural Resources Conservation Service (NRCS) recommended the landowner create ten half-acre wildlife food plots which are scattered throughout the rangeland area. The landowner also has set up infrastructure to facilitate a three-pasture livestock grazing-rotation system. As part of this effort, an 18,000-gallon water tank, and four 1,000-gallon water troughs, with wildlife escape ramps, were installed.

As identified in the Plan, mitigation for impacts to, or disturbances within, sage-grouse habitat on private property within an SGMA, is voluntary by the private property owner. UDWR greatly appreciates private landowners who voluntarily decide to implement the mitigation recommendations identified in the Plan, as this may help to avoid the need for future listing of greater sage-grouse under the Endangered Species Act.

As outlined above, the project proponent has already completed some habitat improvements/mitigation within the surrounding rangelands, and within the dry farm area. While these improvements will benefit the current livestock grazing program, they also will benefit wildlife, particularly mule deer. In addition, if future greater-sage grouse or Columbian sharp-tailed grouse populations expand into the area, these birds could also benefit from the increased water supply and the rangeland improvements. These previously completed habitat restoration activities provide some measure of benefit as habitat improvements that could supply compensatory mitigation for habitat impacts.

In addition to these previously completed habitat mitigation actions, UDWR recommends several additional activities that could be undertaken to provide further compensatory mitigation for disturbance to sage-grouse and other wildlife species, especially night-migrating birds. We have identified these actions in previous letters pertaining to the Landfill, and we briefly address them, again, here:

- Undertake measures to reduce the attraction to and occurrence of mammalian predators (fox, coyote, badger, skunks, raccoons) and corvids (the bird family that includes American crows, common ravens and black-billed magpies) to the Landfill. All these species pose a serious predation threat to both eggs and hatchlings if grouse begin to repopulate the zone around the Landfill. These measures could include, but are not limited to: prohibiting the acceptance of animal carcasses; or, if animal carcasses are accepted, covering each waste load as it is deposited on the fill face. If carcasses will be accepted, we recommend they be placed into a separate pit or trench, with a minimum of 6" of earth used to cover the carcasses immediately after they are placed in the pit.
- The property ideally would not have lights illuminating the property at night, as lights can affect avian nesting, as well as migratory behavior (for migratory bird species). If necessary, down-shielded lights can be used around the entrance gate and building, but we request a full consideration of whether these can be devised as motion-activated lights so that they are not on, with full brightness, at all hours, thereby avoiding impacts to migrating birds during the night.

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February 6, 2019

Subject: Franklin Hill Regional Landfill – Mitigation Recommendations

- We urge as well a consideration of the Landfill being operated only during day-light hours to reduce impacts to wildlife associated with artificial night-time lighting.
- The sagebrush habitat surrounding the Landfill should remain undisturbed during the life of the facility. In addition, the understory could be seeded with wildlife-benefitting species. UDWR previously provided the proponent with a wildlife-benefitting seed mix for the area which can be used to reseed the understory and other temporarily disturbed habitats on the property.
- We recommend approximately 100 acres of additional rangeland habitat be enhanced through additional understory seeding, possibly including sagebrush seed, if needed.

We appreciate the opportunity to work with your office and the project proponent to reduce impacts to wildlife. Please contact Bill James (801-538-4752) or Pam Kramer (801-476-2775) if we can be of further assistance.

Sincerely,



ACTING DIRECTOR

Michal D. Fowlks  
Director